

Part 1

General Provisions and Definitions

70A-4-101 Short title.

This chapter is known as "Uniform Commercial Code -- Bank Deposits and Collections."

Amended by Chapter 237, 1993 General Session

70A-4-102 Applicability.

- (1) To the extent that items within this chapter are also within the scope of Title 70A, Chapter 3, Uniform Commercial Code - Negotiable Instruments and Chapter 8, Uniform Commercial Code - Investment Securities, they are subject to those chapters. If there is a conflict, this chapter governs Title 70A, Chapter 3, Uniform Commercial Code - Negotiable Instruments and Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities governs this chapter.
- (2) The liability of a bank for action or nonaction with respect to an item handled by it for purposes of presentment, payment, or collection is governed by the law of the place where the bank is located. In the case of action or nonaction by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

Amended by Chapter 237, 1993 General Session

70A-4-103 Variation by agreement -- Measure of damages -- Certain action constituting ordinary care.

- (1) The effect of the provisions of this chapter may be varied by agreement but the parties to the agreement may not disclaim a bank's responsibility for its lack of good faith or failure to exercise ordinary care, or limit the measure of damages for the lack or failure. However, the parties may determine by agreement the standards by which the bank's responsibility is to be measured if those standards are not manifestly unreasonable.
- (2) Federal Reserve regulations and operating circulars, clearinghouse rules, and the like, have the effect of agreements under Subsection (1), whether or not specifically assented to by all parties interested in items handled.
- (3) Action or nonaction approved by this chapter or pursuant to Federal Reserve regulations or operating circulars is the exercise of ordinary care and, in the absence of special instructions, action or nonaction consistent with clearinghouse rules and the like or with a general banking usage not disapproved by this chapter, is prima facie exercise of ordinary care.
- (4) The specification or approval of certain procedures by this chapter is not disapproval of other procedures that may be reasonable under the circumstances.
- (5) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount that could not have been realized by the exercise of ordinary care. If there is bad faith, it includes any other damages the party suffered as a proximate consequence.

Amended by Chapter 237, 1993 General Session

70A-4-104 Definitions and index of definitions.

- (1) In this chapter, unless the context otherwise requires:

- (a) "Account" means any deposit or credit account with a bank including a demand, time, savings, passbook, share draft, or similar account, other than the account evidenced by a certificate of deposit.
 - (b) "Afternoon" means the period of a day between noon and midnight.
 - (c) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions other than a Saturday, a Sunday, or a legal holiday.
 - (d) "Clearinghouse" means an association of banks or other payors regularly clearing items.
 - (e) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items including a bank that maintains an account at another bank.
 - (f) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities as provided in Section 70A-8-101, instructions for uncertificated securities as provided in Section 70A-8-101, other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft.
 - (g) "Draft" means a draft as defined in Section 70A-3-104 or an item, other than an instrument, that is an order.
 - (h) "Drawee" means a person ordered in a draft to make payment.
 - (i) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Chapter 4a, Uniform Commercial Code - Funds Transfers, or a credit or debit card slip.
 - (j) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later.
 - (k) "Settle" means to pay in cash, by clearinghouse settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final.
 - (l) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.
- (2) Other definitions applying to this chapter and the sections in which they appear are:
- (a) "Agreement for electronic presentment," Section 70A-4-110.
 - (b) "Bank," Section 70A-4-105.
 - (c) "Collecting bank," Section 70A-4-105.
 - (d) "Depositary bank," Section 70A-4-105.
 - (e) "Intermediary bank," Section 70A-4-105.
 - (f) "Payor bank," Section 70A-4-105.
 - (g) "Presenting bank," Section 70A-4-105.
 - (h) "Presentment notice," Section 70A-4-110.
- (3) "Control" as provided in Section 70A-7a-106 and the following definitions in other chapters apply to this chapter:
- (a) "Acceptance," Section 70A-3-409.
 - (b) "Alteration," Section 70A-3-407.
 - (c) "Cashier's check," Section 70A-3-104.
 - (d) "Certificate of deposit," Section 70A-3-104.
 - (e) "Certified check," Section 70A-3-409.
 - (f) "Check," Section 70A-3-104.
 - (g) "Good faith," Section 70A-3-103.
 - (h) "Holder in due course," Section 70A-3-302.
 - (i) "Instrument," Section 70A-3-104.

- (j) "Notice of dishonor," Section 70A-3-503.
 - (k) "Order," Section 70A-3-103.
 - (l) "Ordinary care," Section 70A-3-103.
 - (m) "Person entitled to enforce," Section 70A-3-301.
 - (n) "Presentment," Section 70A-3-501.
 - (o) "Promise," Section 70A-3-103.
 - (p) "Prove," Section 70A-3-103.
 - (q) "Teller's check," Section 70A-3-104.
 - (r) "Unauthorized signature," Section 70A-3-403.
- (4) In addition, Chapter 1a, Uniform Commercial Code - General Provisions, contains general definitions and principles of construction and interpretation applicable throughout this chapter.

Amended by Chapter 272, 2007 General Session

70A-4-105 "Bank" -- "Collecting bank" -- "Depository bank" -- "Intermediary bank" -- "Payor bank" -- "Presenting bank."

In this chapter:

- (1) "Bank" means a person engaged in the business of banking, including a savings bank, savings and loan association, credit union, or trust company.
- (2) "Collecting bank" means a bank handling an item for collection except the payor bank.
- (3) "Depository bank" means the first bank to take an item even though it is also the payor bank unless the item is presented for immediate payment over the counter.
- (4) "Intermediary bank" means a bank to which an item is transferred in course of collection except the depository or payor bank.
- (5) "Payor bank" means a bank that is the drawee of a draft.
- (6) "Presenting bank" means a bank presenting an item except a payor bank.

Amended by Chapter 12, 1994 General Session

70A-4-106 Payable through or payable at bank -- Collecting bank.

- (1) If an item states that it is "payable through" a bank identified in the item:
 - (a) the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the item; and
 - (b) the item may be presented for payment only by or through the bank.
- (2) If an item states that it is "payable at" a bank identified in the item:
 - (a) the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the item; and
 - (b) the item may be presented for payment only by or through the bank.
- (3) If a draft names a nonbank drawee and it is unclear whether a bank named in the draft is a codrawee or a collecting bank, the bank is a collecting bank.

Repealed and Re-enacted by Chapter 237, 1993 General Session

70A-4-107 Separate office of a bank.

A branch or separate office of a bank is a separate bank for the purpose of computing the time within which, and determining the place at or to which, action may be taken or notices or orders shall be given under this chapter and under Title 70A, Chapter 3, Uniform Commercial Code - Negotiable Instruments.

Repealed and Re-enacted by Chapter 237, 1993 General Session

70A-4-108 Time of receipt of items.

- (1) For the purpose of allowing time to process items, prove balances, and make the necessary entries on the books to determine its position for the day, a bank may fix an afternoon hour of 2 p.m. or later as a cutoff hour for the handling of money and items and the making of entries on its books.
- (2) An item or deposit of money received on any day after a cutoff hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day.

Repealed and Re-enacted by Chapter 237, 1993 General Session

70A-4-109 Delays.

- (1) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment of a specific item drawn on a payor other than a bank, and with or without the approval of any person involved, may waive, modify, or extend time limits imposed or permitted by this act for a period not exceeding two additional banking days without discharge of drawers, indorsers, or liability to its transferor or a prior party.
- (2) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this chapter or by instructions is excused if:
 - (a) the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the bank; or
 - (b) the bank exercises such diligence as the circumstances require.

Repealed and Re-enacted by Chapter 237, 1993 General Session

70A-4-110 Electronic presentment.

- (1) "Agreement for electronic presentment" means an agreement, clearinghouse rule, or Federal Reserve regulation or operating circular, providing that presentment of an item may be made by transmission of an image of an item or information describing the item, a "presentment notice," rather than delivery of the item itself. The agreement may provide for procedures governing retention, presentment, payment, dishonor, and other matters concerning items subject to the agreement.
- (2) Presentment of an item in accordance with an agreement for presentment is made when the presentment notice is received.
- (3) If presentment is made by presentment notice, a reference to "item" or "check" in this chapter means the presentment notice unless the context otherwise indicates.

Enacted by Chapter 237, 1993 General Session

70A-4-111 Statute of limitations.

An action to enforce an obligation, duty, or right arising under this chapter must be commenced within three years after the cause of action accrues.

Enacted by Chapter 237, 1993 General Session

